

The title stands objected to as not properly relating to the claimed invention. In response, Applicant amended the title as recited above to more properly direct the title to the claimed invention. Thus, Applicant respectfully requests that the objection to the title be withdrawn.

Claims 5, 8-15 and 17-21 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite due to various informalities. In response, Applicant amended claims 5, 8-15, 17 and 19-21 as recited in the attached exhibits to remove the informalities. Applicant also added claim 24 depending on claim 1 and reciting features removed from claim 5. Accordingly, Applicant respectfully requests that the §112 rejection of these claims be withdrawn.

Claims 1-11, 16 and 19-20 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In response, Applicant respectfully traverses because a “task cost” as recited in claim 1 in and of itself is a useful, tangible and concrete result.

First the Examiner has misquoted the legal test for this determination. The Federal Circuit has held that the claimed invention as a whole must accomplish a practical application. That is, it must produce a “useful, concrete and tangible result.” MPEP 2106 II.A, page 2100-6, col. 1, lines 34-36 (*citing State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373, 47 USPQ 2d 1596, 1601-02 (Fed. Cir. 1998)), and specifically for process or method claims, MPEP 2106 IV.B.2.(b)(ii), page 2100-18, col. 1, lines 5-10 (*citing AT&T Corp. V. Excel Communications, Inc.* 172 F.3d 1352, 1358, 50 USPQ 2d 1447, 1452). An actual “product” as the Examiner requires is not the correct standard; it is merely a “result” that is needed. It must be more than a mere starting point for further research and investigation. *Id.*

Obtaining a “task cost” as recited in “e)” of claim 1 of the present application is a useful, concrete, and tangible result. This is one form of a final determination of the claimed process that informs a user of particular information for a particular task. This is analogous to the State

Street case itself where a “final share price” was determined to be a useful, concrete and tangible result. See MPEP 2106, II.A., page 2100-6, col. 2, lines 37-47. Since a “task cost” as recited in claim 1 is a useful, concrete and tangible result and not an abstract idea or law of nature, Applicant respectfully requests that the §101 rejection of claim 1 and its depending claims 2-11, 16 and 19-20, be withdrawn.

Claims 1, 4, 6, 7, 16 and 22-23 stand rejected under 35 U.S.C. §102(e) as being anticipated by LeVander (U.S. 6,216,108). In response, Applicant respectfully traverses because LeVander does not disclose or suggest an operator independent method of task time measurement and a task cost independent of the efficiency of the human operator as recited in claim 1.

Instead, LeVander discloses that it uses historical data or industry standards (See col. 4, lines 5-6; col. 8, line 22; col. 9, lines 2-3). “Historical data” and “industry standards” refers to measurement of the time it takes an operator to complete a process (work time measurement) as is well known in business and construction industries. Since the basis of these measurements is the timing of a particular individual or group of individuals to complete a process, the methods referred to are only operator dependent.

As disclosed in the present application, such operator dependent methods that are based on historical norms or standards are inaccurate (see page 4, lines 4-9 in the present application) to a degree which is unacceptable to many businesses. For work time measurement, historical date, as used in LeVander, is manipulated to estimate or extrapolate time values for similar or unknown processes. See col. 8, lines 21-28. In other words, the time measurement methods in LeVander do not refer to the exact actions taken by an operator, and only refer to the particular process it takes to do a task. For example, in a construction process, there may be a set rate for

constructing wood frames for walls without the knowledge of whether it is built using hammers or nail guns. Such a system really only “estimates” the time required rather than determining the actual time it will take to do a specific task. Thus, such timing methods can be very inaccurate.

In contrast, the present invention is directed to the use of operator independent methods of task timing as recited in claim 1 and as disclosed by the present specification. Operator independent as defined in the present specification –and which cannot be ignored by the examiner - means that the human is treated like a machine and time values are assigned to each mechanical movement of the standard human rather than timing a particular operator to do an entire task. See page 5, line 4 to page 6, line 2. Since all human bodies have a limited number of ways in which it can bend, flex, etc. regardless of the size of the human body, these movements can be timed for a standard human body up to 95% accuracy no matter the height, weight or other dimension of the human body “machine.” A task to be performed is then broken down into a chain of human movements required to perform that task. See page 16, lines 2-6 of the present application. Generally speaking, the time it takes to perform that task is then calculated by adding up all of the time values corresponding to the motions required for that task. See *Id.* Thus, the actual task activities in an operation or job must be known and broken down. No particular operator or group of operators performing the task or operation is timed. The method, therefore, is operator independent in contrast to the methods referred to in LeVander.

LeVander does not disclose or suggest a timing method that breaks down the projects into the actual detailed tasks and individual motions of a human for a specific job or task. LeVander merely discloses operator dependent timing methods that cannot be as accurate as the operator independent time measurement methods. See e.g. col. 4, lines 5-6. Since LeVander does not disclose or suggest operator independent methods as recited in claim 1, LeVander does not

disclose all of the features of claim 1. For this reason, Applicant respectfully requests that the §102(e) rejection of claim 1, and its depending claims 4, 6, 7, 16 and 22-23 be withdrawn.

Claim 2 stands rejected under 35 U.S.C. §103 as being unpatentable over LeVander in view of Isherwood (U.S. 5,918,219). In response, Applicant respectfully traverses because neither of the cited references, alone or in combination, disclose or suggest an operator independent method of task time measurement. Applicant repeats the arguments from above that LeVander does not disclose this feature as recited in claim 1 and included in claim 2 through dependency.

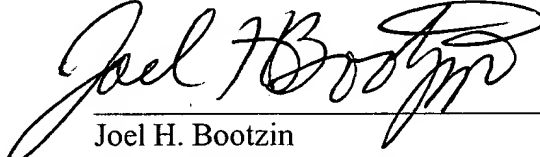
Applicant also submits that Isherwood does not disclose or suggest this feature either. Isherwood merely discloses the use of historical data based on operator dependent time measurement methods as known in the art (see generally cols. 7, 9 and 10). No indication whatsoever is given that Isherwood discloses an operator independent method as disclosed by the present claims and specification.

In addition, Isherwood does not disclose or suggest the specific operator independent method of task time measurement called predetermined motion time system as recited in claim 2. The Examiner cites figure 5 (503) as disclosing this feature. Instead, this feature of Isherwood merely discloses an hour database that stores hours by category for tracking blocks of time during a construction project. See col. 7, lines 20-32 and col. 9, ¶(b). These hours as defined by Isherwood are based on historical records (See e.g. cols. 7-10). Historical records are based on time measurement of an operator to perform the task. As explained above, any time measurement of an operator to perform the task is by definition operator dependent. In contrast, PMTS is by definition an operator independent method of determining time to complete tasks as discussed to overcome the rejection of claim 1. Therefore, Isherwood cannot disclose or suggest

a predetermined motion time system as recited in claim 2. For this reason, Applicant submits that the §103 rejection of claim 2 has been overcome and respectfully requests that the §103 rejection of claim 2 based on LeVander in view of Isherwood be withdrawn.

For the foregoing reasons, applicant respectfully requests consideration and allowance of all pending claims. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,



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